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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,424	02/07/2002	Gregory G. Kuelbs	0638MH-40982-US	9580

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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 12/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/068,424

Applicant(s)

KUELBS, GREGORY G.

Examiner

Hargobind S Sawhney

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 5-12 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. The information statement filed on June 18,2002 has been entered.

### ***Drawings***

2. The drawings filed on February 7,2002 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftperson's Patent Drawing Review," PTO-948.

### ***Claim Objections***

2. Claim 12 is objected to because of the following informalities:

Claim 12, line 6, "fro' needs to be corrected as --for--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,4,13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (U.S. Patent No. 5,172,711).

Regarding claims 1,4,13 and 14, Mueller et al. (U.S. Patent No. 5,172,711) discloses an umbrella apparatus 80 (Figure 1, column 5, line 46) comprising:

- A base support portion 28' (Figure 1, column 5, line 56), a pole portion 16' (Figure 1, column 2, line 56) coupled to the base support portion 28', a canopy portion 12' (Figure 1, column 5, line 55) hingedly coupled (claims 2 and 3) to the pole portion 16' (Figure 5), a rechargeable electric power system 26' (Figure 1, column 6, lines 16-18) providing electrical power to the umbrella apparatus 80;
- a solar system 82 (Figure 1, column 6, lines 60 and 61) carried by the pole portion 16, and being positioned above the canopy portion 12' (Figure 1, column 6, lines 60 and 61) for collecting solar energy and converting it into electrical energy;

- the solar energy system being conductively coupled to the rechargeable batteries 26' (Figure 1, column 6, lines 16-18);
- a cooling system 18' (Figure 1, column 5, lines 56 and 57) carried by the canopy portion, and electrically coupled to the rechargeable electrical power system 26'; and
- the cooling system including a fan 18' (Figure 1, column 5, lines 56 and 57) electrically coupled to the rechargeable electrical power system 26'.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (U.S. Patent No. 5,172,711) in view of Benton (U.S. Patent No. 6,017,188).

Regarding Claim 2, Mueller et al. (U.S. Patent No. 5,172,711) teaches an umbrella apparatus comprising a rechargeable electrical power system being carried by its base portion, and a solar energy system being mounted on the upper surface of its

canopy. However, Mueller does not teach a rechargeable electrical power system and a solar energy system both being carried by a housing mounted on the pole portion of the umbrella apparatus.

On the other hand, Benton (U.S. Patent No. 6,017,188) discloses a patio table and a pole fan combination comprising a rechargeable electrical power system and a solar energy system both being carried by a housing mounted on the pole portion of the apparatus.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the umbrella apparatus of Mueller by providing positioning of a rechargeable electrical power system and a solar energy system as taught by Benton for the benefit and advantage of less time consuming and less costly assembly requiring less wiring.

Regarding Claim 3, Mueller et al. (U.S. Patent No. 5,172,711) teaches an umbrella apparatus comprising a rechargeable electrical power system being carried by its base portion, and a solar energy system being mounted on the upper surface of its canopy. However, Mueller does not teach a solar energy system being carried by a housing mounted on the pole portion of the umbrella apparatus.

On the other hand, Benton (U.S. Patent No. 6,017,188) discloses a patio table and a pole fan combination comprising a solar energy system both being carried by a housing mounted on the pole portion of the apparatus.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the umbrella apparatus of Mueller by providing a solar energy

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system carried by a housing mounted on the pole portion of the umbrella apparatus as taught by Benton (U.S. Patent No. 6,017,188) as the locations taught by Mueller and that by Benton are functionally equivalent. In addition, the poisoning taught by Benton has benefit of less time-consuming assembly of the apparatus.

***Allowable Subject Matter***

7. Claims 5-12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Mueller et al. (U.S. Patent No. 5,172,711) and Benton (U.S. Patent No. 6,017,188), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining:

- a rechargeable electrical power system rechargeable from an AC power outlet as recited in Claim 5;
- a lighting system carried by the canopy portion as recited in Claim 6;
- an electromechanical opening and closing the canopy as recited in Claim 10; and

- a cooling system a fluid reservoir, a mist nozzle hydraulically coupled to a pump as recited in Claim 15.

Claims 7-9 are necessarily objected because of their dependency on the objected base Claim 6.

Claim 11 and 12 are necessarily objected because of their dependency on the objected base Claim 10.

8. Claims 16-20 are allowed.

The prior art of record, including Mueller et al. (U.S. Patent No. 5,172,711) and Benton (U.S. Patent No. 6,017,188), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining at least two of the following modular , interchangeable systems:

- a cooling system as recited in Claim 16;
- a lighting system carried by the canopy portion as recited in Claim 16; and
- an electromechanical opening and closing the canopy as recited in Claim 16.

Claims 17-20 are necessarily allowed because of their dependency on the allowed base Claim 16.



**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mozdzanowski (U.S. Patent No. 5,273,062) discloses an umbrella apparatus comprising some of the claimed features claimed a solar energy system as disclosed by the applicant.

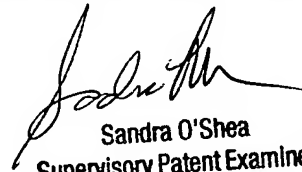
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S, Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 7:30 - 5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-8303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2956.

HSS

12/4/2002

  
Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800